

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Minnesota Democratic-Farmer-Laborer
Party,

Complainant,

vs.

Representative Ernie Leidiger and Steven
Nielsen, Treasurer, Citizens for Ernie
Leidiger,

Respondents.

**NOTICE OF DETERMINATION OF
PRIMA FACIE VIOLATION
AND
NOTICE OF AND ORDER FOR
EVIDENTIARY HEARING**

TO: Minnesota DFL (Complainant) and Representative Ernie Leidiger and Steven Nielsen, Treasurer, Citizens for Ernie Leidiger (Respondents).

On March 1, 2012, the Minnesota Democratic-Farmer-Laborer Party (MN DFL) filed a campaign complaint with the Office of Administrative Hearings alleging that Representative Ernie Leidiger and Steven Nielsen, as Treasurer of Citizens for Ernie Leidiger violated Minnesota Statutes § 211B.12 by using campaign funds for a non-permitted personal expenditure.

Following a review of the Complaint and attached documents, the undersigned Administrative Law Judge has determined that the Complaint sets forth a *prima facie* violation of Minnesota Statutes § 211B.12. This determination is described in more detail in the attached Memorandum.

THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS HEREBY GIVEN that this matter will be scheduled for a prehearing conference and an evidentiary hearing, to be held at the Office of Administrative Hearings, 600 North Robert Street, St. Paul, Minnesota 55101.

Pursuant to Minn. Stat. § 211B.35, the evidentiary hearing must be held within 90 days of the date the complaint was filed.

You will be notified of the dates and times of both the prehearing conference and evidentiary hearing, and the three judges assigned to hear this matter, within approximately two weeks of the date of this Order. The evidentiary hearing will be conducted pursuant to Minnesota Statutes § 211B.35. Information about the evidentiary hearing procedures and copies of state statutes may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us.

At the evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judges. Parties should bring with them all evidence bearing on the case with copies for the Administrative Law Judges (3) and the opposing party.

After the evidentiary hearing, the Administrative Law Judges may dismiss the complaint, issue a reprimand, or impose a civil penalty of up to \$5,000. The panel may also refer the complaint to the appropriate county attorney for criminal prosecution. A party aggrieved by the decision of the panel is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Administrative Law Judge must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 600 North Robert Street, P.O. Box 64620, St. Paul, MN 55101, or call 651-361-7900 (voice) or 651-361-7878 (TTY).

Dated: March 2, 2012

/s/ Richard C. Luis

RICHARD C. LUIS

Administrative Law Judge

MEMORANDUM

The Complaint alleges that on June 24, 2011, Representative Ernie Leidiger paid a \$178 fine relating to a speeding ticket with funds from his principal campaign committee in violation of Minn. Stat. § 211B.12 of the Minnesota Fair Campaign Practices Act. The Complainant has attached a copy of Hennepin County District Court records that indicate that Representative Leidiger was convicted on the charge of exceeding the posted speed limit of 55 miles per hour by 19 miles per hour, and was assessed a fine and surcharge in the amount of \$178.¹ The Complainant has also attached a copy of Representative Leidiger's campaign committee's report of expenditures that reflects a "noncampaign disbursement" of \$178 to "Hennepin County, 7009 York Avenue South, Edina" for "transportation."² The Hennepin County address

¹ Complaint Ex. A.

² Complaint Ex. B.

on the campaign finance report reflects Hennepin County District Court's Southdale location where Representative Leidiger's case was processed.

Minnesota Statutes § 211B.12 provides that money collected for political purposes must be used in connection with the conduct of election campaigns or for an authorized "noncampaign disbursement."

Section 211B.12 provides as follows:

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 26. The following are permitted expenditures when made for political purposes:

- (1) salaries, wages, and fees;
- (2) communications, mailing, transportation, and travel;
- (3) campaign advertising;
- (4) printing;
- (5) office and other space and necessary equipment, furnishings, and incidental supplies;
- (6) charitable contributions of not more than \$50 to any charity annually; and
- (7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

Minnesota Statutes § 10A.01, subd. 26, defines "noncampaign disbursements," in part to mean payments by a campaign committee for accounting and legal services, food, beverages and entertainment for fundraising events, and payment of a candidate's expenses for serving public office, "other than for personal uses."

The Complaint asserts that paying a fine relating to a candidate's speeding violation is not included within the scope of authorized noncampaign disbursements nor is it an authorized expenditure for a political purpose.

To set forth a *prima facie* case that entitles a party to a hearing, the party must either submit evidence or allege facts that, if unchallenged or accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.³ For purposes of a *prima*

³ *Barry v. St. Anthony-New Brighton Independent School District*, 781 N.W.2d 898, 902 (Minn. App. 2010).

facie determination, the tribunal must accept the facts alleged as true and the allegations do not need independent substantiation.⁴ A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of chapter 211A or 211B.⁵

The Administrative Law Judge concludes that the Complaint has alleged sufficient facts to demonstrate a *prima facie* violation of Minnesota Statutes § 211B.12. The issue to be determined is whether Representative Leidiger's \$178 expenditure was for a permitted political purpose reasonably related to the conduct of his election campaign, or whether the funds were converted to personal use in violation of the statute.

An order scheduling this matter for a prehearing conference and evidentiary hearing will be issued shortly. Should this matter not be resolved at the prehearing conference, it will proceed to an evidentiary hearing before a panel of three Administrative Law Judges, pursuant to Minnesota Statutes § 211B.33, subd. 2(d).

R.C.L.

⁴ Id.

⁵ Id.